

*Testimony of Michigan Partners In Crisis Coalition on HB 4793*

House Judiciary Committee – Oct. 13, 2015

Chairman Kesto and Members of the Committee,

I'm Mark Reinstein, a member of the Advisory Board to the *Michigan Partners In Crisis* mental health-and-justice coalition. Our membership includes peace officers, judges, jail administrators, defense attorneys, and behavioral health experts and advocates. We do policy analysis and advocacy on statewide issues pertaining to at-risk individuals with severe mental illness. I have personally been involved with such work for over 32 years in the mental health field.

We support mental health clinical certificates and petitions generally being kept confidential. The modifying regulations of Mental Health Code sections 748-750 should be utilized, and it appears HB 4793 would allow this. There are, however, some desired exceptions to confidentiality that Mental Health Code sections 748-750 don't cover well enough or at all. Thus, we respectfully recommend any statute on this subject incorporate the following exceptions:

1. Upon request, clinical certificate/petition information shall be released to the subject's guardian and any individual who can demonstrate to the court that s/he is a caregiver to or service payer for the subject.
2. Upon request, clinical certificate/petition information shall be released to any individual contemplating the filing of a petition requesting assisted outpatient treatment.
3. If the subject is deceased, clinical certificate/petition information shall be released upon request to the subject's personal representative and any individual who can demonstrate to the court that s/he is a surviving relative of the subject under the third degree of consanguinity in civil law, or was a caregiver to or service payer for the subject.
4. Clinical certificate/petition information shall be released to law enforcement agencies as necessary for those entities to fulfill legal obligations and responsibilities.

Additionally, there are two important things that can be done early in the clinical certificate or petition processes that can be helpful to record-keeping; current and future behavioral health treatment efforts; and a subject's planning for future decisions related to his/her treatment preferences. These are:

- A. Subjects shall be asked early in the process if they wish to identify in writing anyone they want case information sent to, and if they will sign a release for sharing of clinical certificate/petition information with current or potentially future providers. If the subject has a guardian with authority to make medical decisions, these questions shall be shared with the guardian.
- B. Subjects shall be asked early in the process if they have a psychiatric advance directive, patient advocate, or durable power of attorney, or wish to establish any of these. Should the subject wish to do so, a list of potentially helpful resource agencies for such establishment shall be provided to the subject. If the subject has a guardian with authority to make medical decisions, such questions and information shall be shared with the guardian.

Thank you for your thoughtful consideration of these points. We conceptually support HB 4793, and thank Rep. Lucido for his efforts. We believe, however, that a little more time should be taken to develop the bill further.